

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-17526
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on March 18, 2010, in Lansing. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Sally Wilson (ES).

Claimant requested additional time to submit new medical evidence. Claimant waived the timeliness requirements so his new medical evidence could be reviewed by SHRT. On March 12, 2010, SSA approved claimant for RSDI with an onset date of December 2008.

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P)?
- (2) Did claimant establish a severe physical impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant is an MA-P/retro applicant (September 9, 2009) who was denied by SHRT (February 15, 2010) based on claimant's ability to perform his past work.

(2) Claimant's vocational factors are: age--55; education--high school diploma; post high school education--truck driving school; work experience--truck driver.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a truck driver in 2007.

(4) Claimant has the following unable-to-work complaints:

- (a) Diabetes;
- (b) Coronary Artery Disease;
- (c) Blood clots in legs;
- (d) Shortness of breath;
- (e) Diminished stamina;
- (f) Colitis;
- (g) Status post seven heart stents;
- (h) Depression;
- (i) Sleep apnea.

(5) On March 12, 2010, SSA approved claimant for RSDI benefits with a disability onset date of December 1, 2008.

CONCLUSIONS OF LAW

LEGAL BASE

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative

Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

On March 12, 2010, SSA approved claimant for RSDI with a disability onset date of December 1, 2008. Therefore, this Administrative Law Judge does not have jurisdiction to rule out on the issue of disability at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant meets the MA-P disability requirements under PEM/BEM 260. Claimant is disabled for MA-P purposes based on the recent RSDI approval by SSA.

Accordingly, the department's denial of claimant's MA-P application is, hereby, REVERSED.

The department shall open claimant's MA-P case, assuming all nonmedical requirements are met, effective June 1, 2009.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 23, 2010

Date Mailed: August 23, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

2010-17526/JWS

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JWS/tg

cc:

